

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
August 12, 2002

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke
Clerk: D. E. Moore

D037162 Wisniewski v. Presidio Place Condominium Association

D037174 Wisniewski v. Presidio Place Condominium Association et al.

Cause called on merits. Alexandria Phillips, Esq. argued for appellant, telephonically. Kere Kay Tickner, Esq. argued for respondent, telephonically. Harvey C. Berger, Esq. was present in oral argument for respondent, but did not argue. Ms. Phillips replied. Cause submitted as to both cases.

D037868 People v. Hickey

Cause called on merits. Betty Haight, Esq. argued for appellant. Maggy Krell, Certified Law Student argued for respondent. Cause submitted.

D038070 People v. LeGrand

Cause called on merits. William R. Salisbury, Esq. argued for appellant. Janelle Boustany, Deputy Attorney General argued for respondent. Mr. Salisbury replied. Cause submitted.

Court recessed at 9:49 a.m. to change panel members. New panel members: The Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald

D038477 People v. West

D039561 In re West on Habeas Corpus

Cause called on merits. Howard Cohen, Esq. argued for appellant. Peter Quon, Deputy Attorney General argued for respondent. Mr. Quon replied. Cause submitted.

Court recessed at 10:20 a.m. until 1:30 p.m.

D040320 Fenley v. Development Design & Engineering, LLC/Dubose et al.

No docketing statement and copy of a judgment having been filed with this court, the appeal is dismissed.

D040407 Garritson v. San Diego County Department of Animal Control

The appeal is dismissed.

D039601 Panther v. Park et al.

D039633 Panther v. Superior Court of San Diego County/Park et al.

The pending petition for writ of mandate, D039633, is consolidated with the pending appeal, D039601, for disposition. Let a writ of mandate issue ordering the Superior Court of San Diego County to vacate its order granting the motion for disqualification and to enter an order denying the motion. The related appeal is dismissed as moot. CERTIFIED FOR PUBLICATION. McIntyre, J;
We Concur: Haller, Acting P.J., McDonald, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
August 12, 2002 (Continued)

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald
Clerk: D. E. Moore

D038724 Kay, Jr. v. Bravo

Cause called on merits. Robert Arthur Budd, Esq. argued for appellant. Richard C. Norton, Esq. argued for respondent. Mr. Budd replied. Cause submitted.

D038160 People etc. v. Velarde et al.

Cause called on merits. Anita P. Jog, Esq. argued for appellant, Velarde. Richard P. Siref, Esq. argued for appellant, Alcoholic Beverage Control Board. Frederick R. Millar, Jr., Deputy Attorney General argued for respondent. Ms. Jog replied. Cause submitted.

D039518 In re Alessa L., a Juvenile

D040072 In re Lorena A. on Habeas Corpus

Causes called on merits. Joseph Tavano, Esq. argued for appellant. Patrice Plattner-Grainger, Deputy County Counsel argued for respondent. M. Elizabeth Handy, Esq. argued for the minor. Mr. Tavano replied. Cause submitted as to appeal ONLY, D039518.

D035742 Evans v. Evans

Cause called on merits. Matthew M. Kremer, Esq. argued for appellant. Robert H. Basie, Esq. argued for respondent. Mr. Kremer replied. Cause submitted.

D039171 In re Rebecca L. et al., Juveniles

Cause called on merits. Suzanne Evans, Esq. argued for appellant, Terri B. Gary Seiser, Deputy County Counsel argued for respondent. M. Elizabeth Handy, Esq. argued for the minor, Cheyenne L. Carl Fabian, Esq. argued for the minor, Rebecca L. Ms. Evans replied. Cause submitted.

Court recessed at 3:15 p.m. until Tuesday, August 13, 2002 at 9:00 a.m.

D040591 People v. Bradway

Appellant's application to vacate dismissal and reinstate appeal is granted. The order of dismissal is vacated and the appeal is reinstated.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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D039207 People v. Ellis

Judgment affirmed. Kremer, P.J.; We Concur: Benke, J., McDonald, J.

D040418 In re Pena on Habeas Corpus

The petition is denied.

D040296 City of San Diego v. Workers' Compensation Appeals Board/Richardson

The petition is denied.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Terry O'Rourke

Clerk: D. E. Moore

D035787 People v. Christopher James Turgeon

Cause called on merits. Carl Fabian, Esq. argued for appellant. Marilyn George, Deputy Attorney General argued for respondent. Mr. Fabian replied. Cause submitted.

D037905 Xtracash ATM, Inc., et al. v. Andrew Karsh et al.

Cause called on merits. Kendra J. Hall, Esq. argued for appellant. R. Anthony Mahavier, Esq. argued for respondent. Ms. Hall replied. John Feher, Esq. was present in oral argument for appellant, but did not argue. Cause submitted.

D037680 People v. Carolyn Konow et al.

Cause called on merits. Josephine Kiernan, Deputy District Attorney argued for appellant. Cynthia M. Sorman, Esq. argued for respondent, Toosley. Matt Braner, County Public Defender argued for respondent, Rohrer. Marianne Cox, Esq. argued for respondent, O'Neil. Michael J. McCabe, Esq. argued for respondent, Konow. Ms. Kiernan replied. Cause submitted.

Court recessed at 10:50 a.m. until 1:30 p.m.

D040102 N.W. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petition is granted. Let a writ issue directing the juvenile court to vacate its order denying reunification services and setting a section 366.26 hearing. The trial court is to hold a new dispositional hearing at which Mother shall be offered reunification services. This opinion is final immediately as to this court. Nares, J.; I Concur: McDonald, J.; I Concur in the Result: Huffman, Acting P.J.

D038371 People v. Rossi

The judgment is affirmed. Kremer, P.J.; We Concur: Benke, J., Nares, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
August 13, 2002 (Continued)

D039653 In re Alberto R., a Juvenile
The judgments are affirmed. McIntyre, J.; We Concur: Haller, Acting P.J., McDonald, J.

D039577 In re Carissa H. et al., Juveniles
The order terminating Candice's parental rights and selecting adoption as the children's permanent plan is affirmed. McIntyre, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke
Clerk: D. E. Moore

D039413 In re Emilie S. et al., Juveniles
Cause called on merits. Sandra L. Thomas, Esq. argued for appellant. Lisa Maldonado, Deputy County Counsel argued for respondent. Julie E. Braden, Esq. argued for the minor. Cause submitted.

D037430 People v. Brandy
Cause called on merits. Gary E. Nelson, Esq. argued for appellant. Peter Quon, Deputy Attorney General argued for respondent. Mr. Nelson replied. Cause submitted.

D037129 People v. Singleton
Cause called on merits. Laura Schaefer, Esq. argued for appellant. Warren Robinson, Deputy Attorney General argued for respondent. Ms. Schaefer replied. Cause submitted.

Court recessed at 2:12 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald

D036401 Barratt American, Inc. v. Transcontinental Insurance Company
Cause called on merits. Marc Joseph Poster, Esq. argued for appellant/cross-respondent. Scott Thomas, Esq. argued for respondent/cross-appellant. Mr. Poster replied. Cause submitted.

Court recessed at 2:57 p.m. until Wednesday, August 14, 2002 at 9 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
August 14, 2002

D038803 Nairne v. Jessop-Humblet

The order is reversed. Appellant is to be awarded costs on the appeal. Kremer, P.J.
We Concur: Benke, J., McIntyre, J.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate
Justices Alex McDonald and Terry O'Rourke
Clerk: D. E. Moore

D038913 People v. Jaime Romero

Cause called on merits. John L. Staley, Esq. argued for appellant. Janelle Boustany, Deputy Attorney
General argued for respondent. Cause submitted.

D038665 In re Kevin W., a Juvenile

Cause called on merits. David Becker Songco, Esq. argued for appellant. Kelley A. Johnson, Deputy
Attorney General argued for respondent. Cause submitted.

D037672 People v. Izydorski

Cause called on merits. Russell S. Babcock, Esq. argued for appellant. Vince Rabago, Deputy Attorney
General argued for respondent. Mr. Babcock replied. Cause submitted.

D038711 People v. Lowrie

Cause called on merits. Richard A. Thomas, Esq. argued for appellant. Dawn Geist, Certified Law
Student argued for respondent. Mr. Thomas replied. Cause submitted.

D039515 In re Lourdes L., a Juvenile

Cause called on merits. Joseph Tavano, Esq. argued for appellant. Gary Seiser, Deputy County Counsel
argued for respondent. Christopher Blake, Esq. argued for the minor. Mr. Tavano replied. Cause
submitted.

Court recessed at 10:37 a.m. until Friday, August 16, 2002 at 9 a.m.

D039966 Vega-Roberts v. De Assis et al.

Pursuant to California Rules of Court, rule 8, the appeal filed April 2, 2002, is dismissed for appellant's
failure to timely designate the record (Cal. Rules of Court, rules 4(a) and 5(a)).

D040512 Copley Press Inc., et al. v. Superior Court of San Diego County/Westerfield

The petition is denied as premature.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
August 15, 2002

D037142 People v. Verlinde

The petition is denied.

D038724 Kay v. Bravo

We remand the matter with directions to vacate the dismissal and enter an order staying the matter. Bravo to bear costs on appeal. Haller, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D033214 People v. Terrones

The judgment is affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., Haller, J.

D040507 Jackson et al. v. Superior Court of San Diego County/Billings

The petition is denied.

D040609 In re Mora on Habeas Corpus

The petition is denied.

D040408 Chaidez v. Superior Court of San Diego County/People

The petition denied.

D039897 In re Fults on Habeas Corpus

The petition is denied.

D040539 Chaidez v. Superior Court of San Diego County/People

The petition is denied.

D037936 People v. Garcia

The judgment is affirmed. Benke, J.; We Concur: Kremer, P.J., McIntyre, J.

D040268 California Insurance Guarantee Association v. Workers' Compensation Appeals Board/Tenbruin

The petition is denied.

D040416 In re Seng on Habeas Corpus

The petition is denied without prejudice to refiling after consideration by the superior court.

D040395 In re Perez on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
August 16, 2002

Court convened at 9 a.m.

Present: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices
Alex McDonald and Terry O'Rourke
Clerk: D. E. Moore

D039379 In re Diega M., a Juvenile

D039895 In re Diega M. on Habeas Corpus

Cause called on merits. Donna Kaiser, Esq. argued for appellant. Gary Seiser, Deputy County Counsel argued for respondent. Andrea St. Julian, Esq. argued for the minor. Ms. Kaiser replied. Cause submitted as to appeal ONLY, D039379.

Court adjourned at 9:38 a.m.

D039804 In re Tatiana O., a Juvenile

The order must be reversed and the matter remanded. At its earliest convenience, the juvenile court is ordered to provide Christina with proper notice and hold a new hearing regarding the propriety of a restraining order. This court takes no position as to whether the relief requested should be granted. The parties have stipulated and the court directs that the remittitur issue immediately. (Cal. Rules of Court, rule 25(b).) McDonald, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

D039494 In re J.D., a Juvenile

The order terminating Rose's parental rights and selecting adoption as the permanent plan for J. is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D037560 People v. Battiest

The judgment is affirmed but for failure to award credit for actual time served and imposition of a four-year term for inflicting great bodily injury. The matter is remanded to the trial court for correction of these errors and is directed to forward a copy of the amended judgment to the Department of Corrections. Kremer, P.J.; We Concur: Benke, J., McDonald, J.

D039863 In re Taylor H., a Juvenile

The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., Haller, J.

D039654 In re D.M., a Juvenile

The judgments are affirmed. Kremer, P.J., We Concur: Haller, J., McIntyre, J.

D040015 In re Kristen B., a Juvenile

The order is reversed and the matter remanded for a hearing, at the juvenile court's earliest convenience, on whether the section 388 petition presents a prima facie case warranting an evidentiary hearing on its merits. The parties have stipulated and the court directs that the remittitur issue immediately. (Cal. Rules of Court, rule 25(b).) McDonald, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
August 16, 2002 (continued)

D037675 People v. Foster

The judgment is affirmed. CERTIFIED FOR PUBLICATION. McIntyre, J.
I Concur: McConnell, J., I Dissent (by opinion): McDonald, J.